

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC, <i>Plaintiff,</i>	§ § § § § § § § §	Case No. 6:15-cv-584
v.		
AUDIBLE MAGIC CORPORATION <i>Defendant.</i>		

AUDIBLE MAGIC CORPORATION <i>Counterclaim Plaintiff,</i>	§ § § § § § § § §
v.	
BLUE SPIKE LLC, BLUE SPIKE, INC. and SCOTT A. MOSKOWITZ Counterclaim Defendants.	

**ORDER REGARDING MOTION FOR LEAVE TO FILE § 101
DISPOSITIVE MOTION AND EXPEDITED BRIEFING SCHEDULE**

On June 22, 2016, the Court issued an Order Regarding Motions and Requiring Parties to Further Meet and Confer. (Docket Entry # 130). Specifically, the Court ordered the parties to meet and confer regarding the claims going to trial in July and to file a joint status report on or before June 27, 2016. The Court has reviewed the parties' submission and orders as follows.

In the Joint Status Report Re Claims Going to Trial in July 2016, Audible Magic represents it "will soon bring a dispositive motion, on behalf of itself and its customers, for judgment of invalidity under Section 101, as a matter of law, given that Blue Spike is bound under principles of collateral estoppel and *res judicata*." (Docket Entry # 137 at 10). Blue Spike objects to Audible

Magic's filing such a motion on the eve of trial, asserting the motion is untimely and is a waste of judicial resources.

The Court orders Audible Magic to file, on or before **June 30, 2016**, a **motion for leave** to file its anticipated motion for judgment of invalidity under § 101, attaching as an exhibit the proposed dispositive motion.

On or before Tuesday, **July 5, 2016 at 8:30 a.m.**, Blue Spike shall file an **expedited response** to Audible Magic's motion for leave.

Any **reply** shall be filed on or before **8:30 a.m. on July 6**.

The parties should be prepared to present argument to the Court at the initial pretrial conference July 6, should the Court require it.

IT IS SO ORDERED.

SIGNED this 29th day of June, 2016.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE